

## **Chapter 15**

### **General Operations**

This chapter identifies topics pertaining to general operations that have not been addressed elsewhere in the handbook. Topics are listed in alphabetical order.

#### **Audits**

Transit systems are required to have an annual audit conforming to the requirements of [OMB Circular A-133](#), including the applicable portion of Appendix B, Part 4. ([http://www.whitehouse.gov/omb/assets/a133/a133\\_revised\\_2007.pdf](http://www.whitehouse.gov/omb/assets/a133/a133_revised_2007.pdf).) All sources and amounts of funding that contribute to public transit should be identified. Two copies of the completed audit report should be submitted to OPT as soon as it is available, but in no case later than twelve months after the end of the fiscal year.

#### **Charter Rules**

Public transit agencies are not allowed to provide private charter services, except under a few select circumstances.

All Charter rules can be found in [49 CFR 604](#).

##### **Charter service is defined as:**

- 1.) Transportation provided by a FTA recipient or subrecipient at the request of a third party for the exclusive use of a bus or van for a negotiated price where:
  - a. A third party pays the transit provider a negotiated price for the group;
  - b. Any fares charged to individual members of the group are collected by a third party;
  - c. The service is not part of the transit provider's regularly scheduled service, or is offered for a limited period of time; or
  - d. A third party determines the origin and destination of the trip as well as scheduling.
- 2.) Transportation provided by a recipient to the public for events or functions that occur on an irregular basis or for a limited duration and:
  - a. A premium fare is charged that is greater than the usual or customary fare; or
  - b. The service is paid for in whole or in part by a third party.

The Charter definition does not include demand response service to individuals.

Please note: If your transit system has subcontractors operating FTA-funded vehicles as part of your transit service, the subcontractor is covered by the FTA Charter rule in the same manner as your transit system. If the subcontractor has non-FTA-funded vehicles, those vehicles may be used for charter work, but all costs must be segregated so the statistics are not counted as public transit. If the subcontractor does perform charter work using non-FTA-funded vehicles, you may want to consider whether such action will generate complaints if those vehicles are signed as part of your public transit system fleet.

The Charter rules apply to recipients and subrecipients of FTA financial assistance, except for:

- A public transit system transporting its employees, other transit system employees, transit management officials, transit contractors and bidders, government officials and their contractors and official guests, to or from transit facilities or projects within its geographic service area or proposed geographic service area for the purpose of conducting oversight functions such as inspection, evaluation, or review.
- Private charter operators that receive, directly or indirectly, Federal financial assistance under section 3038 or to the non-FTA funded activities of private charter operators that receive, directly or indirectly, FTA financial assistance under any of the following programs: 5307, 5309, 5310, 5311, 5316, or 5317.

- A public transit system transporting its employees, other transit system employees, transit management officials, transit contractors and bidders, government officials and their contractors and official guests, for emergency preparedness planning and operations.
- Transit services performed specifically under the program purposes of 5310, 5311, 5316, or 5317.
- A public transit system, for actions directly responding to an emergency declared by the President, governor, or mayor or in an emergency requiring immediate action prior to a formal declaration. If the emergency lasts more than 45 days, the recipient shall follow procedures set out in the rules.
- A public transit system in a non-urbanized area transporting its employees, other transit system employees, transit management officials, and transit contractors and bidders to or from transit training outside its geographic service area.

### **Charter Service Agreement**

A recipient or subrecipient must enter into a Charter Service Agreement in order to receive FTA funds for equipment or facilities. The terms of the Charter Service Agreement are as follows: "The recipient/subrecipient agrees that it, and each of its subrecipients, and third party contractors at any level who use FTA-funded vehicles, may provide charter service using equipment or facilities acquired with Federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 CFR 604, the terms and conditions of which are incorporated herein by reference."

The Charter Service Agreement is contained in the Certifications and Assurances published annually by FTA for applicants for Federal financial assistance, which each direct recipient submits electronically to FTA and which Iowa subrecipients sign as part of the annual Consolidated Transit Funding Application. Once a recipient or subrecipient receives federal funds, the Certifications and Assurances become part of its Grant Agreement or Joint Participation Agreement for Federal financial assistance.

### **Exceptions**

A recipient or subrecipient may provide charter service to the following groups, under certain circumstances:

- A recipient/subrecipient may provide charter service, on its own initiative or at the request of a third party, if no registered charter provider responds to the notice issued (per 49 CFR Part 604.14): Within 72 hours for charter service requested to be provided in less than 30 days, or Within 14 calendar days for charter service requested to be provided in 30 days or more. A recipient/subrecipient shall not provide charter service under this section if a registered charter provider indicates an interest in providing the charter service set out in the notice issued pursuant to 49 CFR Part 604.14 and the registered charter provider has informed the recipient of its interest in providing the service.
- To government officials (Federal, State, and local) for official government business, which can include non-transit related purposes, if the recipient/subrecipient provides the service in its geographic service area and does not generate revenue from the charter service, except as required by law. Maximum 80 charter service hours annually.
- To qualified human service organization (QHSO) for the purpose of serving persons with mobility limitations related to advanced age, with disabilities, or with low-income. If the QHSO is receiving funding, directly or indirectly, from the programs listed in [Appendix A](#) of 49 CFR Part 604, the QHSO shall not be required to register on the FTA charter registration website. If a QHSO does not receive funding from any of the programs listed in Appendix A of 49 CFR Part 604, but provides services to individuals with advanced age, with disabilities, or with low-income, the QHSO shall register on the FTA charter registration website.
- A recipient/subrecipient may lease its FTA-funded equipment and drivers to registered charter providers for charter service only if 1) the private charter operator is registered on the FTA Charter Registration Website, 2) the registered charter provider owns and operates buses or vans

in a charter service business, 3) the registered charter provider received a request for charter service that exceeds its available capacity either of the number of vehicles operated by the registered charter provider or the number of accessible vehicles operated by the registered charter provider, and 4) the registered charter provider has exhausted all of the available vehicles of **all** charter providers registered for the recipient's/subrecipient's geographic service area.

- A recipient/subrecipient may provide charter service to a customer consistent with an agreement entered into with **all** charter providers registered for the recipient's/subrecipient's geographic service area.
- A petition to the FTA Administrator for an exception to the charter service regulations to provide charter service directly to a customer for events of regional or national significance, hardship (only for non-urbanized areas under 50,000 in population or small urbanized areas under 200,000 in population), or unique and time sensitive events (e.g. funerals of local, regional, or national significance) that are in the public's interest. Any exception granted by the Administrator under this section shall be effective only for the event identified by the date and description submitted to the Administrator.

### **Required Reporting on Any Charters Performed**

If charter service is provided by a recipient/subrecipient under any of the above exceptions, the records should include the following for each trip:

- The group/organization's name, address, telephone number, and e-mail address;
- The date and time of service;
- The number of passengers (if provided under the government official exception, please note the number of government officials on the trip);
- The origin, destination, and trip length (miles and hours);
- The fee collected, if any;
- The vehicle number for the vehicle used to provide the service; and
- A clear statement identifying which exception the recipient/subrecipient relied upon when it provided the charter service.

A recipient/subrecipient that provides charter service in accordance with one or more of the exceptions contained above shall maintain the required notice and records in an electronic format for a period of at least three years from the date of the service or lease. A recipient/subrecipient may maintain the required records in other formats in addition to the electronic format.

A recipient/subrecipient providing charter service under these exceptions shall post the records required under this rule on the FTA Charter Registration Website (large urban areas) 30-days after the end of each calendar quarter or to the Iowa DOT (small urban and regional systems) 25-days after each calendar quarter. A single document or charter log may include all charter service trips provided during the quarter.

Charter trips are considered "incidental service" and must be separately reported on Quarterly/Year End statistical reports; the miles and rides will not count toward STA and FTA operating funds distribution.

### **State Fuel Taxes Required on Any Charters Performed**

Fuel used in providing charter services, as well as in other nonpublic or non-passenger services, is taxable under state law and must be so identified in quarterly fuel tax reports.

### **Recipient's/Subrecipient's Notification to Registered Charter Providers**

Upon receiving a request for charter service, a recipient/subrecipient may 1) decline to provide the service, with or without referring the requestor to FTA's Charter Registration Website ([www.fta.dot.gov/CharterRegistration](http://www.fta.dot.gov/CharterRegistration)), 2) provide the service under an exception noted above, or 3)

provide notice to registered charter providers as provided in this rule, and provide the service if no Registered Charter Provider responds to notice from a recipient/subrecipient.

If a transit system is interested in providing charter service that does not qualify for an exception, then upon receipt of a request for charter service, the recipient shall provide e-mail notice to registered charter providers in the recipient's geographic service area in the following manner:

1. E-mail notice of the request shall be sent by the close of business on the day the recipient receives the request unless the recipient received the request after 2 p.m., in which case the recipient shall send the notice by the close of business the next business day;
2. E-mail notice sent to the list of registered charter providers shall include:
  - Customer name, address, phone number, and e-mail address (if available);
  - Requested date of service;
  - Approximate number of passengers;
  - Whether the type of equipment requested is (are) bus(es) or van(s); and
  - Trip itinerary and approximate duration; and
3. If the recipient intends to provide the service that meets the definition of charter service, the e-mail notice must include the fare the recipient intends to charge for the service.

The transit system needs to retain an electronic copy of the e-mail notice and the list of registered charter providers that were sent e-mail notice of the requested charter service for a period of at least three years from the date the e-mail notice was sent. If a transit system receives an "undeliverable" notice in response to its e-mail notice, the transit system shall send the notice via fax. The transit system shall maintain the record of the undeliverable e-mail notice and the fax sent confirmation for a period of three years.

### **Registration of Qualified Human Service Organizations**

Qualified human service organizations (QHSO) that seek services from recipients/subrecipients and do not receive funds from Federal programs but do serve individuals with low-income, with advanced age, or with disabilities) may register on the FTA's Charter Registration [website](#). Once a QHSO has properly registered, a recipient/subrecipient may provide charter service, complying with the requirements under the QHSO exception.

### **Competition with Private Enterprise**

[Chapter 324A](#) of the Code of Iowa prohibits public agencies from competing with private enterprise. However, transit systems are allowed under the chapter to provide public transit services, as well as charter services that comply with FTA's charter regulations.

### **Compliance Reviews**

As the recipient of section 5310, 5311, statewide 5309, New Freedom, and JARC FTA funds, OPT is responsible for ensuring that all subrecipients follow federal regulations. OPT conducts compliance reviews with 5310 and 5311 transit systems at least every three years to help transit systems understand the federal regulations and identify where transit systems need to improve. Compliance reviews involve an on-site visit by OPT staff. A listing of the approximately 250 questions used in the compliance reviews (along with documentation of the federal requirements addressed) can be previewed in the "resources" section of OPT's website at [http://www.iatransit.com/resources/compliance\\_resources.asp](http://www.iatransit.com/resources/compliance_resources.asp).

### **Coordination (324A)**

The State of Iowa is considered a leader in the coordination of publicly funded transportation primarily because the Iowa legislature adopted transportation coordination provisions in [Chapter 324A](#) of the Code of Iowa. [324A.4\(1\)](#) states: "...Any organization, state agency, political subdivision, and public transit system, except public school transportation, receiving federal, state or local aid to provide or contract for public transit services or transportation to the general public and specific client groups, must coordinate

*and consolidate funding and resulting service, to the maximum extent possible, with the urban or regional transit system."*

[324A.4\(2\)](#) designates the Iowa DOT as the responsible agency to verify that all organizations, agencies, subdivisions and transit systems are in compliance with this mandate, while [324A.5](#) requires all other units of state and local government in Iowa to assist the department in this effort. Sanctions to induce compliance are established in [324A.5](#).

### **Coordination of State and Federal Transit Funds**

Transit systems are encouraged to combine state and federal transit funds with those available from other agencies. Transit funds must be used to provide a comprehensive passenger transportation program for both social service clients and the general public. Portions of the service may be designed around the specific transportation needs of a particular user group, allowing that group to share in the benefits of the federal and state transit programs. However, all services using federal or state operating funds or vehicles purchased with funds administered by OPT must be open to the general public at all times.

Agencies that contract to purchase transit service from a transit system should share in the benefits from the federal and state transit operating funds. The actual cost of providing the service needs to be presented to the agency, along with the amount they will be charged when federal and state transit funds help subsidize the service. OPT encourages the transit system to distribute the transit funds equitably. The agency can determine the percent of subsidy based on the factors they feel appropriate (i.e. rides, miles, hours). The allocation of state and federal assistance across a transit system's contracts/services shall be public information.

### **Coordination of Other State and Federal Funds**

Other sources of funding may be available for transportation. Agencies contracting with public transit systems may use these funds to pay for the service they receive from the transit system. The following is a listing of some of these programs in which transportation is an eligible expense:

[Administration on Aging Title III-B](#)

[Alcohol, Drug Abuse and Mental Health Services Block Grant](#)

[Community Development Block Grant](#)

[Community Health Center](#)

[Community Services Block Grant](#)

[Head Start](#)

[Job Training Partnership Act](#)

[Medicaid](#)

[Temporary Aid to Needy Families \(TANF\)](#)

[Title V Grants for Community Services Employment for Older Americans](#)

The United We Ride website provides a matrix of the 64 Federal programs providing funding for passenger transportation: [http://www.unitedweride.gov/1\\_1254\\_ENG\\_HTML.htm](http://www.unitedweride.gov/1_1254_ENG_HTML.htm).

### **Service Coordination**

Service coordination is the integration of resources that promote economic efficiency and service productivity. Vehicles may be shared by more than one agency or by more than one specific user group. Personnel and operational activities, such as routing and scheduling, may be shared by more than one organization.

Services may be either directly provided by transit systems or contracted from other agencies. It may be appropriate to contract with another agency to provide transportation when the agency is willing to operate the service open to the general public. However, direct service by the transit system is preferred since it provides greater assurances that the services will be open to the general public and that other federal requirements will be followed.

### **Vehicle Coordination**

An important aspect of coordination is vehicle coordination. Any agency that owns publicly-funded vehicles is encouraged to coordinate with the public transit system to fully utilize all vehicles. The transit system may subcontract the operation of vehicles by an agency that is willing to provide public transit service if that is the most efficient way of providing the services. However, OPT discourages such subcontracts since vehicles operated by subcontract, may be under-utilized and not as available to non-clients of the subprovider.

The transit system needs to retain control of any vehicles that are operated by other agencies. Vehicles owned by the transit system must follow state and federal guidelines. It is important that agencies realize that all publicly-funded vehicles owned by a transit system must accumulate 10,000 miles per year and must ultimately reach a designated mileage threshold before rehabilitation, transfer, or disposition. It may be necessary for the transit system to rotate vehicles to meet these threshold requirements. The transit system also needs to make certain that proper maintenance is provided and appropriate insurance is carried. The vehicle use agreement must allow for vehicles to be rotated and state who is responsible for maintenance and insurance.

Sometimes a client agency may provide the local funds necessary to match the federal funds used to purchase transit vehicles. However, this presents a problem in that the agency perceives they should own and control the vehicle. To eliminate this, transit systems are encouraged to collect a vehicle replacement fee as part of the cost of providing transit service. This allows the transit system to build up a capital match fund that can be used to provide the local match for vehicles. This eliminates the need for a client agency to provide matching funds for a specific vehicle. Coordination of transit service is enhanced when the transit system can utilize the vehicles wherever it is most appropriate.

### **Fare and Service Changes - Public Comment**

FTA requires that each large urban transit operator have a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transit service. OPT has a similar requirement for small urban and regional transit systems.

The transit system is expected to have a written policy that describes the public comment process on increases in the basic fare structure and on major service reductions. The policy should provide an opportunity for a public hearing or public meeting for any fare increase or major service reduction, should describe how such meetings will be conducted, and how the results of such meetings will be considered in the process of changing fares and service. A public meeting is not mandatory; however, an opportunity for a public meeting in order to solicit comments must be given. While the requirement is limited to fare increases and major service reductions, it is good public policy to receive public input for any significant fare or service changes.

### **Fares Charged Elderly and Persons with Disabilities During Non-peak Hours**

The U.S. Code, [49 U.S.C. Section 5307](#)(d)(1)(D), requires large urban transit systems to offer "half-fares" for elderly persons and persons with disabilities during, at least, non-peak hours for fixed-route transportation using facilities and equipment financed with Federal assistance from FTA. The requirement is that these fares "not exceed one-half of the rates generally applicable to other persons at peak hours, whether the operation is by the transit system itself or by another entity under lease or otherwise." This half-fare rate must also be available to any person presenting a Medicare card issued to that person pursuant to Title II or Title XVIII of the Social Security Act (42 U.S.C. 401 et seq., 1395 et seq.). OPT has chosen not to this as a similar requirement on Iowa's small urban and regional transit systems, but encourages such a policy. Several small urban transit systems do offer reduced fares for senior citizens. Most regions offer services for elderly persons on a contribution basis under contracts with their local Area Agency on Aging funded with Older Americans Act funds.



### **Federal Motor Carrier Safety Regulations**

All transit systems, and agencies or organizations providing transit services under contract, which are not units of state or local government, are subject to the Federal Motor Carrier Safety Regulations. These regulations require drivers to pass biennial medical examinations ([49 CFR Part 391](#)), and also place limitations on drivers' hours of service ([49 CFR Part 395](#)). Although units of state and local government are exempted from the regulation, it is strongly recommended that governmental entities operating public transit services implement similar safety standards.

### **Federal Regulation Tracking**

There are many federal regulations that relate to Federal Transit Administration (FTA) programs. Transit managers should become familiar with The Federal Register (FR)

[http://www.archives.gov/federal\\_register](http://www.archives.gov/federal_register) and The Code of Federal Regulations

<http://www.gpoaccess.gov/cfr/index.html> (CFR). The Federal Register is a daily publication that provides a uniform system for publishing presidential and federal agency documents. To sign up for the daily Federal Register Table of Contents go to: <http://www.gpoaccess.gov/fr/> and click the link under Other Services. The CFR is revised annually and incorporates changes published in the Federal Register as of the date noted on the cover. FTA's regulations are in Title 49, Chapter VI. Regulations in the CFR are cited by title, part and section number. 49 CFR 604.11 refers to title 49, part 604, section 11, [http://www.access.gpo.gov/nara/cfr/waisidx\\_08/49cfr604\\_08.html](http://www.access.gpo.gov/nara/cfr/waisidx_08/49cfr604_08.html).

Changes to the CFR are published in the FR as codified regulations. However, not all documents published in the FR are codified in the CFR. New regulations or amendments to existing regulations that are under consideration are published in the Federal Register as notices of proposed rulemaking (NPRM) to give interested parties the opportunity to comment before the regulation becomes a final rule. The FTA web site lists Federal Register notices of interest to transit.

([http://www.fta.dot.gov/laws/leg\\_reg\\_808.html](http://www.fta.dot.gov/laws/leg_reg_808.html)) Please note that FTA's guidance circulars have not historically gone through the FR rule-making process; however, FTA recently has started to do this.

FTA maintains a [list of current federal regulations](#) relating to FTA programs. Since regulations change frequently, transit managers should monitor the Federal Register. OPT will communicate regulations that may affect transit systems in the Transit Updates.

### **Gift Law**

[Chapter 68B](#) of the Code of Iowa explains that a public official (i.e. public transit board member) or public employee, or that person's immediate family member shall not, directly or indirectly, accept or receive any gift or series of gifts from a restricted donor. A public official or public employee, or the person's immediate family member shall not solicit any gift or series of gifts from a restricted donor at any time.

While mindful of the above paragraph, certain gifts may be received by public officials, public employees, or members of the immediate family of public officials or public employees, as outlined in Chapter 68B.22. The law, for instance, limits the value of nonmonetary gifts to \$3.00 per calendar day from any one donor.

This law applies to all Iowa public transit agencies, their employees and board members, formed as departments of their respective cities or formed by Chapter 28E Agreement.

### **In-state Travel Authority**

[Chapter 325](#) of the Code of Iowa exempts urban transit systems from the requirement to apply for travel authority from Iowa DOT's Office of Motor Carrier Services for public transit services provided in their own urban area and adjacent communities, and to-and-from communities no more than ten miles away. The Code requires that transit systems apply for a "regular route certificate" if serving communities beyond the ten-mile limit.

The exemption from travel authority which once existed for regional transit systems in Chapter 325 has now been broadened to cover all carriers 'providing primarily passenger service for persons who are elderly, persons with disabilities, and other transportation-disadvantaged persons' if they satisfy all of the following requirements:

- the motor carrier is not a corporation organized for profit under the laws of Iowa or any other state or the motor carrier is a governmental organization;
- the motor carrier received or receives operating funds from federal, state, or local government sources; and
- the motor carrier does not duplicate a transportation service provided by a motor carrier issued a regular-route passenger certificate.

It is unclear whether this broader exemption could also apply to urban transit systems, since most would meet all the criteria.

Carpool and vanpool programs are also separately exempted from the travel authority requirements.

### **Intergovernmental Agreements**

[Chapter 28E](#) of the Code of Iowa permits state and local governments in Iowa to make efficient use of their powers by enabling them to provide joint services and facilities with other agencies and to cooperate in other ways of mutual advantage.

This provision has been used to create some of Iowa's regional transit systems. The counties in these regions have entered into an agreement that establishes a separate legal entity that provides transit service in those counties. This entity has all the powers, privileges and authority of a public agency. The following regional transit systems are organized under a 28E agreement:

Region 2	Region 7	Region 12
Region 5	Region 10	Region 13
Region 6	Region 11	Region 15

A 28E agreement may also be made between one or more cities and other public agencies. The following urban transit systems are organized under a 28E agreement:

- Ames Transit Agency (CyRide)
- Des Moines Regional Transit Authority (DART)
- Metropolitan Transit Authority of Black Hawk County (MET, Waterloo)

A listing of the above transit systems, with their member cities and/or counties, can be accessed at: <http://www.iatransit.com/services/agencies.asp>.

A 28E agreement can also allow multiple transit systems to act jointly on a project. Such an agreement can include transit systems organized as private not-for-profit or non-profit corporations under [Chapter 504A](#) of the Code of Iowa.

28E organizations are subject to the same rules as their member governments. This includes open meeting requirements, ethanol use, etc.

### **Labor Protection**

As a condition of using federal transit assistance, transit systems must protect transit employees against any worsening of their situations as a result of any federal transit assistance project. The requirement, found in 49 USC 5333(b) (formerly section 13(c) of the Urban Mass Transportation Act of 1964, as amended) requires that an "arrangement," approved by the Secretary of Labor, be in place before FTA can issue any grant under FTA's 5307, 5309, 5310, or 5311 programs. JARC (5316) is also included, since



Congress required the JARC program to follow the rules for 5307 grants. New Freedom (5317), however, was exempted by Congress from the Labor Protection provisions.

Section 5333(b) requires that each agreement must include provisions addressing the following issues:

1. the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;
2. the continuation of collective bargaining rights;
3. the protection of individual employees against a worsening of their positions related to employment;
4. assurances of employment to employees of acquired mass transportation systems;
5. assurances of priority of reemployment of employees whose employment is ended or who are laid off; and
6. paid training or retraining programs.

FTA and the US Department of Labor established a standard labor warrantee in which all 5311 subrecipients agree to in order to meet this requirement. Each joint participation agreement issued under a 5311 grant binds the subrecipient transit system to the terms of this warrantee.

For other grants, an arrangement /agreement must typically be negotiated with the unions representing the transit employees of the project recipients and/or subrecipients. Each large urban transit system, as well as each small urban or regional system that receives direct FTA funding, must enter into its own agreement reaffirmed for each new grant. The Iowa DOT, as the recipient of the statewide 5307, 5309, and 5316 grants, has been required to reach an agreement with the Amalgamated Transit Union, negotiating on behalf of all the transit unions. The agreement is binding on all subrecipients of the statewide 5307, 5309, or 5316 grants that do not have their own individual agreement. Each joint participation agreement issued under a statewide 5307, 5309, or 5316 grant binds the subrecipient transit system either to its own individual agreement or to the terms of the statewide agreement.

### **Lobbying**

Federal regulations prohibit use of federal funds to influence federal officials concerning specific projects. The regulations do not affect lobbying for or against issues or policies - only lobbying for specific projects such as a grant, loan or contract. The regulations also require the reporting of any lobbying by paid outside parties or new staff, even if funded with nonfederal dollars. Activities of long-term existing staff need not be reported. The requirement affects all subrecipients, contractors and subcontractors at all levels, if they receive at least \$100,000 in federal funding from a project.

OPT, as the recipient of the Sections 5310, 5311, and statewide 5307, 5309, 5316, and 5317 funds is required to obtain an annual certification from each system receiving funds (<http://www.iadotforms.dot.state.ia.us/iowadotforms/GetTemplate.aspx?did=241>). Any system that receives funding in excess of \$100,000 must also provide a report of any existing activity. (<http://www.whitehouse.gov/omb/grants/sfill.pdf>). Certificates and reports (if necessary) are submitted as part of the consolidated grant application.

### **Motor Carrier Registration Interstate**

All public transit systems crossing state lines (interstate travel) are required to register with the Federal Motor Carrier Safety Administration (FMCSA) of USDOT. Registration is free for public agencies. For "quasi-public" (private not-for-profit) corporations there is a \$300/year fee, but there are also provisions allowing the fee to be waived or reduced on a case-by-case basis, if it is shown to be in the public interest. Registered carriers are assigned a carrier number, which must be displayed on all vehicles. Transit systems using FTA funding need not comply with the insurance requirements applied to other interstate carriers, but are required to meet the highest public transit insurance requirements of the states in which they operate.

### **Intrastate**

Effective February 1, 2010, the State of Iowa now requires all transit vehicles with a capacity of nine passengers or more (including the driver) to be registered with USDOT and display their USDOT number if they are either owned or operated by other than a governmental agency.

As an example, a transit system with non-governmental subcontractors: the subcontractors will need to register with USDOT and display their name and USDOT number on the vehicles they are operating. Another example would be Iowa's regional transit systems which are not 28E organizations need to register with USDOT and display their name and USDOT number on the vehicles.

Because Iowa DOT requires that all vehicles purchased with funds administered by the Iowa DOT accumulate 10,000 or 3,000 miles annually depending on useful life status (please see [Chapter 10](#)), even vehicles in use by subcontractors should be rotated to ensure maximum utilization. Considering this requirement, the use of magnetic signs containing the subcontractor's name and USDOT number may be desirable and is permissible so they may be easily switched from vehicle to vehicle as rotation occurs.

Any transit system or subcontractors required to comply with the above rules also need to follow the 49 CFR regulations mentioned in the Federal Motor Carrier Safety Regulations section of this chapter.

To obtain a USDOT number, visit [FMCSA's website](#) or call (800) 832-5660.

### **Open Meetings**

Meetings of members of a governmental body where there is deliberation or action on any matter within the scope of the governmental body's policy-making duties must be open to the public. Requirements on open meetings are found in Chapter 21 of the Code of Iowa. [Section 21.3](#) states "meetings of governmental bodies shall be preceded by public notice and shall be held in open session unless closed sessions are expressly permitted by law." Closed sessions may be permitted in the following situations:

- to discuss strategy with counsel in matters involving litigation;;
- to evaluate the professional competency of an individual whose appointment, hiring, performance or discharge is being considered; or
- to discuss the purchase of particular real estate only when premature disclosure could increase the price the governmental body would have to pay for the property.

See [Section 21.5](#) of the Code of Iowa for more detail and the complete listing of reasons a public body may hold a closed session. (<http://www.legis.state.ia.us/IACODE/1999/21/>)

OPT requires public transit systems that are private-not-for-profit corporations to conform to the open meeting requirements as if they are a public agency. OPT also requires meetings to be held in an ADA-accessible facility.

### **Passenger Transportation Plan**

The Passenger Transportation Plan process (PTP) for Iowa's nine Metropolitan Planning Organizations (MPOs) and 18 Regional Planning Affiliations (RPAs) is designed to promote joint, coordinated passenger transportation planning programs that further the development of the local and regional public transportation systems.

The goals of the PTP process are:

1. Improve transportation services to Iowans
2. Increase passenger transportation coordination
3. Create awareness of unmet needs
4. Develop new working partnerships

5. Assist decision makers, advocates, and consumers in understanding the range of transportation options available
6. Develop justification for future passenger transportation investments
7. Save dollars and eliminate overlapping of services

The PTPs are an Iowa creation which incorporate federal requirements for coordinated planning, as well as addressing needs-based justification for passenger transportation projects. PTPs will provide the basis for effective and appropriate passenger transportation resource allocation for operations, maintenance, and service development; as well as determining/addressing service duplication and gaps in the provision of needed services.

It is imperative that Iowa's transit systems participate in their local PTP process through their MPO or RPA to identify coordination opportunities and learn of needed services. All proposed JARC and New Freedom projects must be included in the PTP in order to be considered for funding. Transit systems also should actively reach out to human service providers throughout the year to identify coordination opportunities.

### **Political Involvement (Hatch Act)**

All transit systems receive federal funding and are subject to the provisions of the Hatch Act, which regulates political activities of employees of agencies that receive federal funds. Regulations are found at Title 5 CFR Part 151. <http://www.osc.gov/hatchact.htm>

An individual principally employed by a state or local executive agency in connection with a program financed in whole or in part by federal grants may:

- be a candidate for public office in a nonpartisan election;
- campaign for and hold elective office in political clubs and organizations;
- actively campaign for candidates for public office in partisan and nonpartisan elections; or
- contribute money to political organization or attend political fundraising functions.

An individual principally employed by a state or local executive agency in connection with a program financed in whole or in part by federal grants may not:

- be a candidate for public office in a partisan election.
- use official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for office.
- directly or indirectly coerce contributions from subordinates in support of a political party or candidate.

For more information or to report violations of the Hatch Act contact:

Office of the Special Counsel  
United States Merit Systems Protection Board  
1730 M Street NW, Suite 201  
Washington, D.C. 20036-4505  
800-854-2824

### **Private Sector Participation in Public Transit**

FTA's Private Sector Participation Policy encourages local officials to involve private-for-profit bus operators and taxicab companies in the planning process for public transit and to consider whether private operators could provide any existing or new public transit services. Specifically, FTA recommends that:

- existing transit services should be reviewed periodically to determine if they can be provided more efficiently by the private sector;
- when new transit services are being developed, or major restructuring of services is being considered, the option of operation by a private-for-profit carrier should be considered; or

- private-for-profit enterprises should be given a fair opportunity to bid for operation of any transit services or other aspect of the transit program.

The inclusion of private transportation operators in the planning process was addressed in Chapter 4, but it should be noted that, to the extent that service planning takes place within the transit system organization as well as through the planning agency, both the transit system and the planning agency are impacted by FTA's policy on involving the private sector in planning of transit services.

Involvement of the private sector in the provision of public transit services can relate to aspects of operations, maintenance, or administration.

### **Operational Opportunities**

It is possible for the transit system to specify route structure, frequency, fares, on-time performance standards, etc. and bid out the actual operation to private providers. The transit system remains financially responsible for the cost of the service and receives credit for all the passenger revenues. Provisions can also be made to give the operator incentives for increased revenues.

Demand-responsive services can also be contracted out, with the transit system specifying the number of vehicles to be available at different times of day, the fares, and on-time performance standards. Because the productivity of demand-responsive service can vary tremendously, in large part based on the dispatch function, the transit system contracting such service out often either includes productivity incentives in the contract or keeps control of the dispatch function themselves.

Two types of operation that are fairly common contracting opportunities at transit properties around the country are after-hours taxi services and express commuter routes.

### **Maintenance Opportunities**

Many small properties lack the resources to have their own maintenance facility or staff, and therefore use private sector contracting for maintenance services. Larger transit systems often contract out major maintenance or specialized jobs. Grounds maintenance and janitorial functions are also potential areas that might be considered for private sector contracting.

### **Administrative Opportunities**

Some public transit systems privatize virtually the entire administrative function by contracting with a private transit management firm. Other systems have contracts with private companies for functions such as legal services, accounting, payroll, labor negotiations, or marketing.

### **Private Sector Clearinghouse**

Transit systems receiving federal funds administered by the Iowa DOT are requested to use the private sector notification clearinghouse service provided by OPT to make individual notices to private providers. Items sent to OPT 30-days in advance of a meeting, labeled "For Private Sector Clearinghouse", are posted to OPT's website, then postcards are sent to all private providers having authority to operate in Iowa, the American Bus Association, the United Motorcoach Association, and other out-of-state carriers who have requested notices. Transit systems should allow extra processing time when setting comment deadlines and verify the mailing date before closing comments. Direct FTA recipients may use this process at their discretion.

### **Private Sector Protest/Appeal Procedures**

FTA requires each public transit system using FTA funding to have a private sector protest procedure established. Iowa's small urban and regional transit systems are required to include in their private sector protest procedure the opportunity for an appeal to OPT, and ultimately to FTA. Appendix 15-F presents a model private sector protest/appeal procedure.

### **Public Hearing Notice**

OPT requires that all transit systems notify private transit providers of the public hearings held for state and federal transit assistance administered by OPT. This is in addition to the requirement to publish a notice in a newspaper. More information on public hearing requirements is included Chapter 5, Funding Applications, and in the Private Sector Clearinghouse section in this chapter.

### **Public Records**

[Chapter 22](#) of the Code of Iowa explains the rights of the public to examine public records. The term "public records" refers to all records, documents, tape, or other information, stored or preserved in any medium. "Every person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record. Unless otherwise provided for by law, the right to examine a public record shall include the right to examine a public record without charge while the public record is in the physical possession of the custodian of the public record. The right to copy a public record shall include the right to make photographs or photographic copies while the public record is in the possession of the custodian of the public record." The fee charged for copying should not exceed the cost of providing the service.

The public shall have access to public records during customary office hours. Items which are confidential and not considered public record include personal information in personnel files (i.e. SSN, home telephone number, home address, motor vehicle report) or attorney work product related to litigation by or against the public agency. Other items are included in Chapter 22.7.

This law applies to all Iowa public transit agencies, including those formed under Chapter 28E and those formed as non-profit agencies that are supported by taxes.

### **Publishing of Meeting Minutes**

Those transit systems organized under Iowa Code Chapter 28E, are required to publish a summary of the proceedings of each regular, adjourned, or special meeting of the joint board of the entity, including the schedule of bills allowed, after adjournment of the meeting in one newspaper of general circulation within the geographic area served by the organization. (Refer to Iowa Code Chapter 28E.6.) The meeting summary shall include the date, time, and place the meeting was held, the members present, and the actions taken. The summary of the meeting proceedings are to be submitted for publication to the newspaper within 20 days following adjournment of the meeting.

The publication of schedule of bills allowed shall include a list of all salaries paid for services performed, showing the name of the person or firm performing the service and the amount paid. The schedule of bills allowed may consolidate amounts paid to the same claimant if the purpose of the individual bills is the same. However, the names and gross salaries of persons regularly employed by the entity shall only be published annually.

### **Radio Licenses**

The Federal Communications Commission (FCC) has specific rules and guidelines for the operation of radio systems. Radio frequencies and towers must be licensed. The license expires every ten years. Beginning December 3, 2001, a mandatory FCC Registration Number (FRN) is required for all agencies who file applications with the Universal Licensing System (ULS) or to register towers via Antenna Structure Registration (ASR). FCC Public Notice DA 01-2452 describes the process. Additional information and contact information can be obtained from the FCC website at <http://www.fcc.gov>.

Licensing and renewal is now done through the Universal Licensing System (ULS) on the internet at <http://wireless.fcc.gov/uls>. The FCC Technical Support Hotline, 877-780-3201, can answer questions about computer access to ULS, identification (TIN) registration, uploading files, or submitting attachments in ULS.

The ULS Licensing Support and Forms information, 1-888-225-5322, can help with questions about which application purpose is appropriate for a particular filing, what information is being requested on a ULS form, or any other ULS-related licensing matter.

In 2004, the FCC mandated that all two-way private radios operating on VHF and UHF frequencies must "narrowband," or use reduced bandwidth, by January 1, 2013. Iowa's transit systems may have to replace or modify their current radio systems in order to comply with this law. Websites which may help in the understanding of this law include the U.S. Department of Justice's [Understanding FCC Narrowbanding Requirements](#) and [www.narrowbandinglaw.com](http://www.narrowbandinglaw.com).

### **Records Retention**

The transit system must have a filing and record retention system to maintain and retrieve information that is required to be retained by local, state or federal governments. The length of time that records should be retained depends on funding requirements, government regulations, insurance, liability, tax considerations, and historical considerations. Records relevant to foreseeable or pending judicial or administrative investigations or proceedings must be preserved until the actions are concluded.

Transit systems are required to retain all records applicable to a project for three years.

Capital project files should include copies of bid notices, bid packages, proposals, communications with vendors, bid analysis and invoices. Concurrence letters from OPT approving the various stages of procurement should also be a part of the file.

Section 5311 operating contract files should contain financial information showing that the operating assistance was not more than 50 percent of the operating deficit.

JARC, New Freedom, or Intercity Bus Assistance agreement files need to contain documentation showing the costs of the project. Documentation will depend on the scope of the project but may include time sheets, invoices, bus trip sheets, schedules or other information.

Section 5310 and 5311 systems that operate any allowable charters must keep the required documentation three years after the service is performed, as detailed above. Specific record retention requirements apply under FTA drug and alcohol testing requirements as noted in Chapter 14.

### **Regional Transit Districts**

At present, two of Iowa's counties are eligible to form Regional Transit Districts, under [Chapter 28M](#) of the Code of Iowa. Iowa Code only allows counties with a population in excess of 175,000 and participating cities to create, by Chapter 28E Agreement, a regional transit district. Among the features of a Regional Transit District are the authority to issue bonds and the authority to levy property taxes on both the incorporated and unincorporated portions of participating counties to support the public transit system. The property tax levy may not exceed 95-cents per thousand dollars of the assessed value of all taxable property in the regional transit district to the extent allowed by Chapter 28M and may not be used in conjunction with any municipal transit levy.

Two or more contiguous counties, one of which with population in excess of 175,000, and participating cities may create, by Chapter 28E Agreement, a regional transit district. Cities within counties contiguous to a Regional Transit District county also may join, whether or not the county is a member. Only Linn and Polk Counties currently meet the population criteria. In Polk County, the Des Moines Regional Transit Authority (DART) is organized as Iowa's only Regional Transit District.

### **Right to Know**

Under the United States Hazardous Chemicals Risks Right-to-Know Act, employers must implement a hazard communication program covering the three parts of the law:

- employees right-to-know;
- community right-to-know; and



- emergency response right-to-know.

### **Employees Right-To-Know**

The law specifies that employees must be made aware of the provisions of the law and must receive training about material safety data sheets (MSDS), container labels and product hazards. Training must be provided at the time of an employee's initial assignment to a new work place and whenever a new hazardous product is introduced into the workplace.

### **Community Right-To-Know**

The transit system is required to provide information about products used to anyone from the public who requests it.

### **Emergency Response Right-To-Know**

The transit system must also notify local fire departments or emergency response teams of products used and stored at worksites.

### **School Transportation Restrictions**

FTA funds may not be used for the purchase of yellow school buses or non-yellow buses with other features such as stop arms, school flashers or permanent signs indicating school usage. FTA does not allow exclusive school transportation on any FTA-funded vehicles. Therefore, FTA does not allow any features on the vehicle that make it appear to be providing exclusive school service.

Iowa law reserves the "school bus yellow" coloration, stop arms and flashing white strobe lights to vehicles designed primarily for exclusive school bus usage. Since such use is not allowed for FTA-funded vehicles, vehicles purchased with funds administered by OPT may not incorporate these features although they may be "school-type vehicles." Iowa law prohibits non-school vehicles from having this equipment even if not purchased with FTA funds.

### **Taxes Available to Transit**

#### **General Fund Levy**

Cities and counties can levy property tax for support of their general fund. This is a primary source of funding for many Iowa transit systems. The general fund levy is limited by state law. [Chapter 384.1](#) of the Code of Iowa states these limits.

#### **Hotel and Motel Tax**

A city or county may impose a hotel and motel tax at a rate not to exceed seven percent. [Chapter 423A](#) of the Code of Iowa explains the hotel and motel tax.

#### **Local Option Taxes**

A local option tax may be imposed after a majority of those voting approve the tax. [Chapter 422B](#) of the Code of Iowa explains the local option taxes.

#### **Municipal Transit Levy**

A city may levy a tax for the operation and maintenance of a public transit system at a rate of up to 95 cents per \$1,000 of assessed value each year. This is stated in [Chapter 384.12\[10\]](#) of the Code of Iowa. These funds are over and above any general funds spent on transit and are not included in the state-imposed caps on general fund levies. Regional Transit Districts, organized under Chapter 28M of the Code of Iowa, may levy a tax of identical nature for support of public transit across both urban and rural portions of member cities and counties. The regional transit district levy and the municipal transit levy may not be used in tandem.

#### **Trust and Agency Fund**

A trust and agency fund can be established by a city to provide employee benefits. An urban transit system, with the city's approval, may use these funds as outlined in [Chapter 384.6](#) of the Code of Iowa. As with the transit levy, the trust and agency fund levy is not covered by controls on general fund levies.

## **Tax Exemptions**

### **Fuel Tax**

Transit systems are exempt from fuel tax as explained in [Chapter 11](#) under fuel regulations.

### **Sales and Use Tax**

A sales tax or use tax are the same type of tax. They are a tax imposed on the sale or exchange of goods or services. The use tax is imposed on the sale of motor vehicles. In Iowa, the proceeds from the general sales tax are deposited in the state's General Fund, and the proceeds from the use tax are ultimately deposited in the Road Use Tax Fund.

Chapter [422.45](#) of the Code of Iowa exempts public agencies and regional transit systems from paying use or sales tax. The transit manager should have a tax exempt number for the transit system to use.

### **FTA list of regulations with links:**

[http://www.fta.dot.gov/laws/leg\\_reg\\_808.html](http://www.fta.dot.gov/laws/leg_reg_808.html)